

**Virginia Soil and Water Conservation Board
Thursday, September 16, 2004
Natural Resources Conservation Service
Richmond, Virginia**

Virginia Soil and Water Conservation Board Members Present

David L. Moyer, Chair
Linda S. Campbell
Benjamin Graham
Granville Maitland
Jean R. Packard

Joseph H. Maroon
M. Denise Doetzer
W.P. Johnson
Richard McNear

Virginia Soil and Water Conservation Board Members Not Present

Robert M. Hall

Susan Taylor Hansen

Staff Present

Leon E. App
David C. Dowling
Jack E. Frye
Mark B. Meador

William G. Browning
Michael R. Fletcher
Lee Hill

Frederick S. Fisher, OAG

Rick Linker, OAG

Others Present

Lee Frame, Lake of the Woods Association
J. Michael Foreman, VDOF
Stephanie Martin, VASWCD

Call to Order

Chairman Moyer called the meeting to order at 9:38 a.m. and declared a quorum present. He asked members to observe a few minutes of silence in consideration of those individuals in the path of Hurricane Ivan.

Introduction of New Members

Chairman Moyer recognized the new members and asked individuals to introduce themselves.

Minutes of July 15, 2004 Meeting

MOTION: Ms. Campbell moved that the minutes of the July 15, 2004 meeting be approved as submitted.

SECOND: Ms. Packard.

DISCUSSION: None.

VOTE: Motion carried unanimously.

FOIA/Conflict of Interest Briefing for Members

Chairman Moyer recognized Mr. Fred Fisher, Office of the Attorney General for a presentation.

Mr. Fisher reviewed the Freedom of Information Act (FOIA) and the Conflict of Interest Act (COI). He noted that there were changes in these acts effective July 1, 2004. Staff will provide Board members with updated copies of the acts.

Mr. Fisher encouraged members to read and be familiar with the contents of the acts.

He reminded members that under the FOIA, everything is open to the public unless specifically exempted. This deals in great part with meetings and records. A meeting is an assemblage of three or a quorum of less than three. This applies to committee meetings as well.

Mr. Fisher reviewed the requirements for a closed meeting. Once determined that a closed is appropriate, the meeting can only address the subject that was identified as the purpose for the closed meeting. Closed meetings are just for the purposes of discussion and no action may be taken.

Public records are open to inspection unless there is a specific exclusion. This includes all records in any form or media prepared by or in possession of a public body. This includes drafts and working papers.

Mr. Fisher noted that there have also been some changes in the Conflict of Interest Acts. The Act addresses prohibited conduct regarding contracts and transactions.

Mr. Fisher stated that as a public official at the state level, members have a right to have the Attorney General consider the facts of a potential conflict and to provide guidance.

Director's Report

Mr. Maroon gave the Director's report.

He extended a welcome to new members Richard McNear and Benjamin Graham. He also expressed appreciation that the Governor chose to allow Mr. Moyer to continue to serve on the Board at this time.

Mr. Maroon noted that it was an important time as the Board is taking on additional responsibility and will continue to do so with regard to stormwater management regulations.

He noted that as of July 1st the Department assumed responsibility for the Chesapeake Bay Preservation Act Program, board and staff. The staff of the former Chesapeake Bay Local Assistance Department have become the 8th division within DCR known as the Division of Chesapeake Bay Local Assistance.

Mr. Maroon stated that he and Mr. Frye made a presentation to the subcommittee of the Senate Finance Committee on urban non-point source pollution. The committee requested the briefing in order to hear more about that side of the nonpoint equation. A copy of the presentation is available from DCR.

Mr. Maroon said that DCR is hoping for the approval to enroll an additional 5,000 acres under CREP (Conservation Reserve Enhancement Program) in the Southern Rivers. Paperwork is pending with the USDA.

DCR staff, along with DEQ staff have been working closely with the General Assembly's JLARC staff on its study of nutrient management in Virginia. DCR expects to appear before the JLARC Commission in November for the report's briefing.

DCR nutrient management staff have been engaged in a regulatory process on revisions to our nutrient management planning certification regulations. The process is moving forward.

DCR staff continue their leadership role in the development of state tributary strategies.

Urban Programs Report

Mr. Hill referenced the Alternative Inspection programs presented at the July meeting for the City of Suffolk and the City of Portsmouth.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the proposed Alternative Inspection Program for the City of Suffolk as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations and that the Board request the DCR staff to monitor the implementation of the alternative inspection program by the City to ensure compliance.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the proposed Alternative Inspection Program for the City of Portsmouth as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations and that the Board request the DCR staff to monitor the implementation of the alternative inspection program by the City to ensure compliance.

SECOND: Mr. Maitland.

DISCUSSION: None.

VOTE: Motion carried unanimously.

District Director Resignations and Appointments

Mr. Meador presented the following District Director Resignations and Appointments.

<u>SWCD</u>	<u>Incumbent</u>	<u>Recommended</u>
Appomattox River	Michael J. Parrish* Dinwiddie	Michael J. Parish* Dinwiddie
Big Sandy	W. Bradley Mullins* Dickenson	W. Bradley Mullins* Dickenson
Big Walker	Samuel H. Cassell Wythe	Samuel H. Cassell Wythe
	Joseph W. Massey* Wythe	Joseph W. Massey* Wythe
Blue Ridge	G. Dan Pace Henry	G. Dan Pace Henry
	Jonathan Vest* Roanoke	Jonathan Vest* Roanoke
Clinch Valley	Denny Scott Jessee*	Denny Scott Jessee*

	Russell	Russell
Colonial	Paul H. Davis* New Kent	Paul H. Davis* New Kent
Culpeper	John H. Boldridge Culpeper	John H. Boldridge Culpeper
	L. Brad Jarvis, Jr.* Madison	L. Brad Jarvis, Jr.* Madison
Daniel Boone	Harold L. Jerrell* Lee	Harold L. Jerrell* Lee
Eastern Shore	Richard F. Hall, III Accomack	Richard F. Hall, III Accomack
	James N. Belote, III* Accomack	William E. Schockley, Jr.* Accomack
Evergreen	Preston Richardson Smyth	Preston Richardson Smyth
	Walter J. Robinson* Smith	Walter J. Robinson* Washington
Halifax	Daniel Lee Goerlich* Halifax	Traci R. Talley* Halifax
Hanover-Caroline	Park A. Dodd, Jr. Caroline	Park A. Dodd, Jr. Caroline
	McGann Saphir* Caroline	McGann Saphir* Caroline
Headwaters	Thomas A. Stanley* Augusta	Thomas A. Stanley* Augusta
Henricopolis	Gatewood H. Stoneman Henrico	Gatewood H. Stoneman Henrico
	Karen F. Carter* Henrico	Karen F. Carter* Henrico
Holston River	David C. Johnson Washington	

	Phillip K. Blevins* Washington	Phillip K. Blevins* Washington
J.R. Horsley	Walter W. Robinson, Jr. Greensville	
	Wesley C. Alexander* Southampton	Wesley C. Alexander* Southampton
James River	Glenn F. Chappell, II* Prince George	Glenn F. Chappell, II* Prince George
John Marshall	Mary Lou Trimble Fauquier	Mary Lou Trimble Fauquier
	Keith R. Dickerson* Fauquier	Keith R. Dickerson* Fauquier
Lake Country	Henry D. Rice Brunswick	Henry D. Rice Brunswick
	C. Taylor Clarke, Jr.* Mecklenburg	C. Taylor Clark, Jr.* Mecklenburg
Lonesome Pine	Harry Lee Strouth Dickenson	
	William Bradley Mullins* Dickenson	William Bradley Mullins* Dickenson
Lord Fairfax	Bobby Clark* Shenandoah	
Loudoun	Corey Childs* Loudoun	Corey Childs* Loudoun
Monacan	Robert Harper* Powhatan	Robert Harper* Powhatan
Mountain	Rodney P. Leach* Highland	Rodney P. Leach* Highland
Mountain Castles	George A. Allen, III* Botetourt	George A. Allen, III* Botetourt

Natural Bridge	Jonathan Repair* Rockbridge	Jonathan Repair* Rockbridge
New River	James Osborne* Grayson	James Osborne* Grayson
Northern Neck	Samuel M. Johnson* Lancaster	Samuel M. Johnson* Lancaster
Northern Virginia	Jean R. Packard Fairfax	Jean R. Packard Fairfax
	Adria C. Bordas* Fairfax	Adria C. Bordas* Fairfax
Patrick	Melanie Barrow* Patrick	Melanie Barrow* Patrick
Peaks of Otter	Scott M. Baker* Bedford	Scott M. Baker* Bedford
Peanut	Rex Cotton* City of Suffolk	Glen Slade* Surry
Peter Francisco	Mark D. Davis* Cumberland	Mark D. Davis* Cumberland
Piedmont	Charles E. Dodson Amelia	Charles E. Dodson Amelia
	J.B. Daniel* Amelia	Bobby Long* Charlotte
Pittsylvania	Bruce Jones* Pittsylvania	Bruce Jones* Pittsylvania
Prince William	Paige E. Thacker* Prince William	Paige E. Thacker* Prince William
Robert E. Lee	William W. Seay* Amherst	William W. Seay* Amherst
Scott County	Scott Jerrell* Scott	Scott Jerrell* Scott
Shenandoah Valley	Eric Scott Bendfeldt*	Eric Scott Bendfeldt*

	Rockingham	Rockingham
Skyline	Edward B. Hale Montgomery	Edward B. Hale Montgomery
	R. Doug Harris* Montgomery	
Southside	Bruce Thompson Lunenburg	Bruce Thompson Lunenburg
	Robert L. Jones* Charlotte	Robert L. Jones* Charlotte
Tazewell	Joyce G. Buchanan Tazewell	Joyce G. Buchanan Tazewell
	J. Michael Harris* Tazewell	J. Michael Harris* Tazewell
Thomas Jefferson	Patrick A. Hanley Louisa	Patrick A. Hanley Louisa
	Michael Lachance* Nelson	Michael Lachance* Nelson
Three Rivers	Keith Balderson* Essex	Keith Balderson* Essex
Tidewater	Harrison A. Dixon Gloucester	Cara Carmine Gloucester
	David M. Moore* Middlesex	David M. Moore* Middlesex
Tri-County/City	John E. Howe* Spotsylvania	John E. Howe* Spotsylvania
Virginia Dare	Melvin Atkinson City of Virginia Beach	Melvin Atkinson City of Virginia Beach
	Watson Lawrence, Jr. City of Chesapeake	

*Extension Agents

Note: During the transition to uniform terms of office, non-Extension Agent appointments will serve a two-year term (expiring 1/1/07). The above Extension Agent appointments will serve a four-year term of office (expiring 1/1/09).

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the list of SWCD Director Appointments Recommended for a Two or Four-Year Term Beginning January 1, 2005 with the exception of the following Districts: Appomattox River, Monacan, Northern Virginia, Pittsylvania and Shenandoah Valley.

SECOND: Mr. Maroon.

DISCUSSION: None.

VOTE: Motion carried unanimously.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the recommendation of Michael J. Parrish, Extension Agent for a four-year term with the Appomattox River Soil and Water Conservation District beginning January 1, 2005.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried with Mr. Maitland abstaining.

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the recommendation of Robert Harper, Extension agent for a four-year term with the Monacan Soil and Water Conservation District beginning January 1, 2005.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried with Mr. Moyer abstaining.

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board approve the recommendation of Jean R. Packard for a two-

year term with the Northern Virginia Soil and Water Conservation District beginning January 1, 2005.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried with Ms. Packard abstaining.

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board approve the recommendation of Bruce Jones, Extension Agent for a four-year term with the Pittsylvania Soil and Water Conservation District beginning January 1, 2005.

SECOND: Ms. Packard.

DISCUSSION: None.

VOTE: Motion carried with Mr. Johnson abstaining.

MOTION: Mr. Maitland moved that the Virginia Soil and Water Conservation Board approve the recommendation of Eric Scott Bendfeldt, Extension Agent for a four-year term with the Shenandoah Valley Soil and Water Conservation District beginning January 1, 2005.

SECOND: Ms. Packard.

DISCUSSION: None.

VOTE: Motion carried with Ms. Campbell abstaining.

Mr. Meador presented the following Soil and Water Conservation District Director Resignations and Appointments:

Big Sandy

Recommendation of Jerry Lester, Buchanan County, to fill unexpired elected term of Edgar Blankenship (deceased) (term of office to begin on or before 10/16/04 – 1/1/08).

Piedmont

Resignation of J.B. Daniel, Amelia County effective 8/3/04, appointed Extension Agent director position, term of office expires 1/1/05.

Recommendation of Bobby Long, Charlotte County, to filled unexpired appointed term of J.B. Daniel (term of office to begin 10/16/04-1/1/05).

Tidewater

Recommendation of Cara E. Carmine, Gloucester County, to fill unexpired appointed term of Harrison A. Dixon (term of office to begin on or before 10/16/04-1/1/05).

Tri-County/City

Resignation of Richard A. Street, Spotsylvania County (now resides in City of Fredericksburg), effective 10/18/04, elected director position (term of office expires 1/1/08).

Resignation of Raymond L. Simms, Spotsylvania County, effective 10/18/04, appointed director position (term of office expires 1/1/07).

Recommendation of Richard A. Street, City of Fredericksburg, to fill unexpired appointed term of Raymond L. Simms (term of office to begin 10/18/04 – 1/1/07).

Recommendation of Raymond L. Simms, Spotsylvania County, to fill unexpired elected term of Richard A. Street (term of office to begin 10/18/04 – 1/1/08).

MOTION: Ms. Campbell moved that the Virginia Board of Conservation and Recreation approve the recommended individuals presented by staff to fill SWCD director vacancies due to resignations and other circumstances and that DCR staff be directed to communicate the Board actions to the affected individuals and their SWCDs.

SECOND: Mr. Johnson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Meador noted that at a future board meeting he would like to have the opportunity to review the staff process for presenting nominations to the Board.

District Study Update

Mr. Meador presented a status report on the District Study. A copy of the handout is attached as Attachment #1.

Ms. Packard asked how this study applied to urban BMPs.

Mr. Meador noted that the charge speaks specifically to agriculture.

Mr. Maroon said that the Senate Finance Subcommittee previously asked for a presentation on urban non-point source issues.

Dam Safety Ad Hoc Committee Update

Mr. Maroon reminded members that at the July meeting the Board authorized the creation of an Ad Hoc Dam Safety Committee to specifically address the key aspects of the Dam Safety specifications, such as those that generated considerable debate over the Lake of the Woods owned dams.

Staff has been developing a list of committee members. Mr. Moyer will serve on the committee. In addition, former Board chair Charles Horn will be a member. Approximately a dozen individuals will serve on the committee, including engineers and those who have particular expertise in this area. DCR is currently engaged in discussions to acquire an outside facilitator.

Mr. Browning noted that the committee will prepare and submit a final report to the Board.

Ms. Doetzer asked if this committee was a permanent committee.

Mr. Browning said that the committee action will end on April 30, 2005.

Dam Safety Certificates and Permits

Mr. Browning referenced information sent to each Board member. Each member was provided with an inventory, by county, of dams in their respective districts.

Mr. Moyer asked that if under the 2000 revised regulations, if staff would notify owners that dams on their property were now being regulated.

Mr. Browning said that would be done as staff was available.

Mr. Browning said that staff has begun the mitigation process for the damage caused from tropical storm Gaston. He noted that a 6-9 hour storm brought approximately 15 inches of rain. Officials estimate that this was a once in 1,000 years storm.

Mr. Browning presented the following Out of Compliance Dams.

01533 Fauber	AUGUSTA	Class I
06119 Lake Mellott	FAUQUIER	Class II
06921 Lake Isaac	FREDERICK	Class II Construction
07507 Pruitt's	GOOCHLAND	Class III Regular
07915 Greene Mountain	GREENE	Class II Conditional
08714 Lake Overton	HENRICO	Class II
17907 Little Lake Arrowhead	STAFFORD	Class II
17908 Lake Arrowhead	STAFFORD	Class II Regular

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board authorize DCR staff to work with the Attorney General's Office on drafting a certified letter to resolve ownership and/or dam classification issues on Pruitt's Dam, Inventory Number 07507 to bring the impoundment structure into compliance with the Virginia Dam Safety Act.

SECOND: Mr. Maitland.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning presented the following Operation and Maintenance Certificate Recommendations:

01505 Upper North River #10	AUGUSTA	Class III Conditional
01513 South River Dam #24	AUGUSTA	Class II Regular
01514 South River Dam #19	AUGUSTA	Class II Conditional
01922 Ivy Hill	BEDFORD	Class I Conditional
03507 Stewarts Creek – Lovill's Creek Dam #9	CARROLL	Class I Conditional
06136 Hideaway Hills	FAUQUIER	Class III Conditional
06904 Cherokee	FREDERICK	Class II Conditional
08703 Gillie Creek	HENRICO	Class II Conditional
09527 Lake Nice	JAMES CITY	Class II Regular
10903 Lake Louisa	LOUISA	Class III Regular
11301 White Oak #1	MADISON	Class II Regular
14111 Davis	PATRICK	Class II Conditional
15322 Prince William Parkway	PRINCE WILLIAM	Class II Conditional
18501 Upper Clinch River Dam #8	TAZEWELL	Class I Conditional
19901 Harwood's Mill	NEWPORT NEWS	Class II Conditional

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board approve the Operation and Maintenance Certificate Recommendations as presented by DCR staff and that staff be

directed to communicate the Board actions to the affected dam owner.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning presented the following Permit Recommendations:

05707 Essex Mill Pond	ESSEX	Class II, Alteration Permit
10716 Oliver	LOUDOUN	Class II Conditional, Alteration Permit
10739 Brambleton: Land Bay 3 Pond 6	LOUDOUN	Class II, Construction Permit
10937 Spring Creek Golf Course Irrigation Lake	LOUISA	Class II, Construction Permit
16301 Goshen (Lake Merriweather)	ROCKBRIDGE	Class I Conditional, Alteration Permit
19901 Harwood's Mill	NEWPORT NEWS	Class II Conditional, Alteration Permit

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the Permit Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owner.

SECOND: Mr. Johnson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning presented the following Extension Recommendations:

01516 Upper Wallace	AUGUSTA	Class III Regular	December 31, 2004
02501 Brunswick County	BRUNSWICK	Class III Regular	January 31, 2005
03309 Lake Land'or	CAROLINE	Class II Regular	January 31, 2005
04903 Collins Upper	CUMBERLAND	Class III Regular	January 31, 2005
04906 Pearsall	CUMBERLAND	Class III Regular	January 31, 2005
05104 White Oak Creek	DICKENSON	Class II Regular	December 31, 2004
05902 Burke Lake	FAIRFAX	Class I Regular	January 31, 2005
05933 Crippen	FAIRFAX	Class II Regular	January 31, 2005
06107 Thompson	FAUQUIER	Class I Conditional	January 31, 2005

07526 Broad Branch	GOOCHLAND	Class III Regular	January 31, 2005
08539 Mattawan	HANOVER	Class III Regular	January 31, 2005
14532 Foundry Lake	POWHATAN	Class III Regular	January 31, 2005
15506 Lake Powhatan Dam	PULASKI	Class II Conditional	December 31, 2004
16505 Lake Shenandoah	ROCKINGHAM	Class II Regular	January 31, 2005
19314 Red Oak	WESTMORELAND	Class II Regular	January 31, 2005
72001 Lower Norton Reservoir	NORTON CITY	Class I Regular	December 31, 2004

MOTION: Ms. Campbell moved that the Virginia Soil and Water Conservation Board approve the extension recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Packard.

DISCUSSION: None.

VOTE: Motion carries unanimously.

Mr. Browning presented the following six dams for consideration for Four Month Condition Extensions to Two-Year Conditional O&M Certificates:

01501 South River Dam #26 Headwaters SWCD	Class I	May 31, 2006
01502 South River Dam #25 Headwaters SWCD	Class I	May 31, 2006
01508 South River Dam #23 Headwaters SWCD	Class I	May 31, 2006
01509 South River Dam #6 Headwaters SWCD	Class I	May 31, 2005
04502 Johns Creek Dam #1 Mountain Castles SWCD	Class I	November 30, 2004
04503 Johns Creek Dam #3 Mountain Castles SWCD	Class I	November 30, 2004

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board grant four-month extensions to the conditions contained in the two year Conditional Operation & Maintenance Certificates as presented by DCR staff and directs staff to communicate the Board actions to the affected dam owner.

SECOND: Mr. Maitland.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Browning presented the following dam for consideration for a Two Month Extension to a One-Year Conditional O&M Certificate:

01903 Beaverdam Creek	Western VA Water Authority,	Class II	July 31, 2005
-----------------------	-----------------------------	----------	---------------

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board grant a two-month extension to the conditions contained in the one year Conditional Operation & Maintenance Certificate as presented by DCR staff and that staff be directed to communicate the Board action to the affected dam owner.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Public Comment

Chairman Moyer called for public comment at this time. He noted that agency reports would be given during a working lunch and that following agency reports the Board could move directly to the stormwater management discussion.

Mr. Frame spoke on behalf of the Lake of the Wood's Association.

He said that LOWA was attempting to understand the status of the ad hoc committee. He expressed a concern that the Department of Emergency Management be represented on the committee.

He noted that LOWA had received their conditional certificate on the Lake of the Wood's dam and that the Association is on track. He said that there was a concern with two conditions that he did not believe were addressed by the board and asked if these conditions could be removed.

Mr. Browning noted that the data sheets provided to the Board did outline the conditions. Not all conditions are recorded in the actual letter.

Mr. Maroon said that this was a technical issue that was best dealt with at the staff level working with the Association to see if there is new information that would indicate need for a readjustment.

Partner Agency Reports

Department of Forestry

Mr. Foreman gave the report for the Department of Forestry.

He expressed appreciation to the Department of Conservation and Recreation for WQIF grant funding totaling \$250,000 each year of the biennium. The Department of Forestry

is working with DCR staff to develop an RFP to focus on forest buffers, logging concerns and urban stormwater mitigation.

There are several new or recently filled positions within the agency including foresters in Orange and Madison Counties, and technicians in Rockingham and Sussex Counties. The department is seeking a new Public Information Officer.

The Department has established a GIS/Remote Sensing Unit with the hope that this will better organize the large amount of land use data and will better clarify the agency role in GIS applications.

Under the Forest Legacy Program the department is working with the Nature Conservancy regarding easements in Rappahannock County.

Mr. Foreman noted that State Forester Jim Garner will be retiring after 46 years of service.

Natural Resources Conservation Service

Ms. Doetzer gave the report for the Natural Resources Conservation Service. A copy of the report is attached as Attachment #2.

Department of Conservation and Recreation

Mr. Frye gave the report for the Department of Conservation and Recreation. A copy of the report is attached as Attachment #3.

Stormwater Management – Request for Approval of Exempt Regulations

Mr. Moyer announced that Ms. Campbell will chair the Board's Stormwater Management Subcommittee. Ms. Hansen, Mr. Graham and Mr. McNear will serve on the committee.

Mr. Maroon said that staff would be briefing the Board on the first phase of the stormwater regulations, which involves the transfer of responsibility.

Chairman Moyer noted that members were provided a copy of HB1177 that set the stage for the regulatory change, a copy of the regulation and a letter from the Office of the Attorney General giving authority to move forward with the promulgation of regulations.

Mr. Frye gave the following presentation about the consolidation of Stormwater Management Programs.

What is Stormwater

- Stormwater runoff is a significant source of pollution, flooding, and stream degradation that is generated from excess water running from paved streets, parking lots, building rooftops, and from construction sites.
- 36% of impaired waters have urban sources and stormwater as a significant contributor.

Agencies and Board Implementing Stormwater Management Programs

- Department of Conservation and Recreation
 - Board of Conservation and Recreation
 - Virginia Soil and Water Conservation Board
- Department of Environmental Quality
 - State Water Control Board
- Chesapeake Bay Local Assistance Department
 - Chesapeake Bay Local Assistance Board

Restructuring Goals

- Reduce public confusion
- Clarify requirements and oversight
- Create more even playing field
- Coordinate inspections and findings
- Improve enforcement authority
- Eliminate overlap in local reporting requirements
- Eliminate redundant agency program reviews.

Program Goals

- Reduce sediment impacts during construction and concentrated runoff, pollutants, channel erosion and flooding following construction.
- Support sediment and phosphorus reduction goals under Chesapeake Bay tributary strategies and in Southern Rivers.
- Support TMDL reductions in streams impaired by excess sediment and nutrients.
- Better protect drinking water supplies.

Key Recommendations

1. Consolidate stormwater programs related to construction activities within DCR.
2. Transfer oversight of municipal stormwater programs to DCR.
3. Establish a more uniform statewide construction permitting program.

4. Establish statewide stormwater requirements for projects with land disturbances of 1 acre or greater (with allowance for lower threshold in CBPA).
5. Empower local governments to implement stormwater management programs.
6. Develop a statewide permit fee system.
7. Encourage low-impact approaches and better site designs.
8. Consolidate SWM and ESC local program reviews.
9. Increase role for the Virginia Soil and Water Conservation Board.
10. Industrial stormwater permit program would remain at DEQ.
11. Eliminate separate CBLAD requirements by incorporating into new statewide approach.

What the New Law Does

- Amends the existing Virginia Stormwater Management Act.
- Streamlines state stormwater programs by combining them into a single agency (DCR); simplifies construction permits; streamlines local government requirements; improves the environment.
- Places oversight into a single Board (Virginia Soil and Water Conservation Board);
- Puts localities more directly into the permitting of stormwater discharges.
- Empowers localities to work with Soil and Water Conservation Districts, neighboring localities, PDCs, etc. to implement HB1177.
- Authorizes localities to better integrate permitting for stormwater and erosion and sediment control programs.
- Sets January 2005 (or whenever EPA approves authorization, whichever is later) as the effective date of the legislation.
- By July 1, 2006 Bay Preservation Act localities and those larger localities designated as MS4 phase I or II shall adopt a Stormwater construction permit program consistent with HB1177.
- All other localities are authorized to opt-in and administer a local stormwater program. Initial notification to DCR by July 1, 2005 of intent to seek delegation. DCR sets schedule for notification.
- In localities not delegated responsibility, DCR will issue the stormwater permits for land disturbing activities.
- Participating localities will share in the stormwater construction permit fee currently charged by the state.
- Allows for sharing of at least 70% of the stormwater construction permit fees with the delegated localities. Remainder goes to DCR for statewide program management, training, technical assistance, oversight and issuance. Currently, none of those state fees are shared with localities.
- DCR will utilize DEQ fee levels (as modified during the 2004 session).

Enforcement/Oversight

- Allows for Board revocation of delegation to a locality.
- Permits may be revoked for noncompliance.
- Establishes right to inspect, issuance of injunctions, right to hearings and appeals, enforcement penalties, and other legal actions.
- Permits issued by the State Water Control Board before transfer date shall remain in effect.

Staffing Actions

- DCR is authorized to fill 15 new staff to be paid from permit fees.
- DCR currently has 6.5 employees in its central office and 20 employees in its regional offices in its Urban Programs section.
- 8 environmental specialists or engineers will be added to DCR's eight regional offices.
- 7 environmental specialists or engineers will be added in the central office. (permit writers, enforcement specialist, program development staff)

Actions Needed

July 1, 2004

- Transfer Board of Conservation responsibility for SW management to Virginia Soil and Water Conservation Board. DONE

September 16, 2004

- Adopt amendments to current Virginia Stormwater Management regulations to reflect changes required by 2004 legislation.

October 1, 2004

- Submit to EPA the package for authorization for DCR to administer federal portion.

December 2004

- Board delegates to DCR powers & duties for program operation.

FUTURE: Develop additional regulatory procedures for approving local programs, state agency project review, LID, etc.: Develop model ordinance, Educate/involve stakeholders.

Framework of Changes

- Existing VA Stormwater Management Act
- Newly passed HB 1177 consolidating stormwater programs to DCR.
- Move regulatory items necessary for EPA authorization from DEQ to DCR
 - Federal (taken from CWA)
 - Program requirements related to MS4s and construction activities
 - Construction activity General Permit
 - MS4 General Permit

- State
 - Fee Regulations

Types of Permits (and how they are different)

- Individual Permit – specific cases
- General Permit – board coverage
- MS4 permit (Municipal Separate Storm Sewer System)
 - Individual
 - General
- Construction Activity Permit
 - General

Virginia Stormwater Management Regulations for Virginia Soil and Water Conservation Board Action – Parts I through XV

Part I – Definitions, Purpose, Applicability

- Merged definitions from federal, DEQ, DCR, SWM and CBLAD regulations
- Notable definitions
 - Clean Water Act of 1972 (CWA)
 - Construction activity – large & small
 - Municipal Separate Storm Sewer System (MS4) – large/medium & small
 - National Pollutant Discharge Elimination System (NPDES) Permit
 - Individual Permit
 - General Permit (GP)
 - Stormwater Management Program
 - Stormwater Pollution Prevention Plan (SWPPP)
 - VA Pollutant Discharge Elimination System (VPDES)
- Purpose: Administration, implementation and enforcement of the VSMP and the Act
- Applicability: MS4s; all state agency project; land disturbing activities statewide (local or DCR review)

Part II – Stormwater Management Program Technical Criteria

- Stormwater conveyance system must discharge to an adequate channel.
- Stormwater facilities must have inspection and maintenance plan.
- Performance-based and technology-based water quality criteria.
- Protect downstream properties and receiving waterways from erosion and damage.
- Provisions for when stormwater facilities can be placed in a Bay Preservation Act area.

Part III – Local Programs

- Will need to establish what constitutes an acceptable local program.
- Will need to establish evaluation process and check-off for evaluating the local programs.
- Will need to create the “delegation process” for passing permit issuing authority to the local level.

Part IV – Permit Requirements for State Agency Projects

- Stormwater management plans required for projects covered by the Act.
- Must address water quality and quantity.
- Provide required permit application information.
- Long-term inspection and maintenance plans.
- Provides state agencies the option of submitting “Annual Plans and Specifications.”
- Sets DCR review timeframe for individual project plans and agency annual plans & specs submissions
- Implement a project tracking & reporting system.

Part V – Reporting

- Delegated local programs and state agencies must report program activities.

Part VI – VSMP General Permit Requirements for MS4s and Land Disturbing Activities

- Identifies activities not requiring permits
- Sets forth requirements for MS4 permits and land disturbing permits
- Confidentiality of information
- Establishment of guidance documents

Part VII – VSMP Permit Applications

- Identifies who needs permit
 - Anyone who discharges or proposes to discharge stormwater into or upon state waters
- Specifies permit application information
- Permit application submittal time frames
- Specifies who can certify a permit application
- MS4s require these minimums:
 - Public education/outreach
 - Public involvement/participation
 - Illicit discharge detection & elimination
 - Construction site stormwater runoff control

- Post-construction SW management; new development and redevelopment
 - Pollution prevention/good housekeeping measures
- General Permits may be issued by Board
 - Large construction
 - Small construction
 - Small MS4s

Part VIII – VSMP Permit Conditions

- Identifies conditions applicable to all permits
- Board may modify, revoke, reissue or terminate permits
- Right of entry for inspections and document review
- Board can set additional permit conditions on a case-by-case basis
- Sets permit duration
- Specify a schedule for compliance if needed.

Part VIX – Public Involvement

- Individual permits and general permits must be public noticed and have comment period
- Notice – at least 30 days
- Public Hearing – may be required; can be held at Board’s discretion
- Board must respond to public comments received for individual and general permits

Part X – Transfer, Modification, Revocation and Reissuance and Termination of VSMP Permits

- Identifies conditions where permit action may be considered
- Board can initiate action or receive a request for action
- Identifies how permits may be transferred

Part XI – Enforcement of SWMP Permits

- How Board may enforce provisions
 - Issue directives
 - Special orders & emergency special orders
 - Injunctions & mandamus
 - Seek civil penalties
 - Seek other remedies under the Act & CWA
- Board to investigate citizen complaints
- Consent orders for enforcement actions

Part XII – Miscellaneous

- EPA delegation allows Board or Director to take actions to implement this Act
- Permits previously issued by SWCB will be transferred to VSWCB upon EPA delegation

Part XIII – Fees

- Fees apply statewide
- Fees are to cover program costs
- Fees collected or received by state are deposited to VA Stormwater Management Fund
- Delegated localities shall retain at least 70% of permit fee to run their local program

MS4 fees:

- Individual Permits (large/medium) \$21,300
- Individual Permits (small) \$2,000
- General Permit (small) \$600
- Fees for Maintenance of MSR4 Permits
 - MS4 (large/medium) \$3,800 annually
 - MS4 (small) \$400 annually

MS4 permit modification fees

- Individual Permits (large/medium) \$10,650
- Individual Permits (small) \$1,000

Construction Activity General Permits

- Large (≥ 5 acres) - \$500
- Small (1 acre to < 5 acres) - \$300
- Bay Act (2,500 sq. ft. to ≤ 1 acre) – TBD

Part XIV – General VSMP Permit for Discharges of SW for Construction Activities

- General Permit (GP) effective July 1, 2004 through June 30, 2009
- Construction activities must submit permit application (registration statement) for coverage under GP
- Stormwater Pollution Prevention Plan (SWPPP) must be developed for each construction activity (site)
- BMP information in SWPPP; type of BMP; location; discharge waterbody; number of treated acres
- General Permit (DCR01) for stormwater discharges from Construction Activities

Part XV – VSMP Permit for Discharges from Small MS4s

- General Permit effective December 9, 2002 through December 9, 2007
- Small MS4s must submit permit application (**registration** statement) to be covered under the General Permit
- General Permit (DCR02) for stormwater discharge from “small” MS4s

Staff presented two proposed motions for Board action:

Motion to finalize the transfer and update to the Board’s Stormwater Management Regulations:

The Board authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to publish the final regulatory amendments necessary to bring the Board’s Stormwater Management Regulations, including any attendant forms, into conformance with changes made to the *Code of Virginia* including those changes necessary pursuant to Chapter 372 of the 2004 Virginia Acts of the Assembly (HB 1177) and any other non-discretionary changes to conform with the Virginia Acts of the Assembly or with federal law and regulations enacted since the last regulatory amendment. This action includes the transfer of the regulations from the Board of Conservation and Recreation to the Virginia Soil and Water Conservation Board and the transfer of certain regulations from the Virginia State Water Control Board into these regulations.

This regulation shall have an effective date of January 1, 2005 or 30 days after the U.S. Environmental Protection Agency’s authorization for delegation of program authority for administering the issuance of national pollutant discharge elimination system permits for the control of stormwater discharges from MS4 and construction activities to the Virginia Soil and Water Conservation Board, whichever is the latter.

This authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations for the final regulatory action publication.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

MOTION made by: Granville M. Maitland

MOTION seconded by: Linda S. Campbell

ACTION: Motion carried unanimously.

Motion to update the Board's Stormwater Management Regulations

The Board authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to prepare those changes necessary to bring the Board's Stormwater Management Regulations, including any attendant forms, into conformance with changes made to the *Code of Virginia* including those changes necessary pursuant to Chapter 372 of the 2004 Virginia Acts of Assembly (HB 1177) and any other non-discretionary changes to conform with the Virginia Acts of the Assembly or with federal law and regulations enacted since the last regulatory amendment. This action (phase 2) will include, but not be limited to, developing the minimum technical criteria and administrative procedures for stormwater management programs in Virginia and establishing standards and procedures for delegating the authority for administering a stormwater management program to localities. The Department shall develop these regulatory changes with the assistance of a public advisory group comprised of affected constituencies and local government representatives assembled by the Director.

This authorization is for those changes that are exempt from the Administrative Process Act and are subject only to the Virginia Register Act.

This authorization extends to, but is not limited to, the drafting of the necessary regulatory amendments, action summary, and other necessary documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General and the Virginia Registrar of Regulations.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

MOTION made by: Granville M. Maitland.

MOTION seconded by: Linda S. Campbell.

ACTION: Motion carried unanimously.

Election of Board Chairman and Vice Chairman

MOTION: Mr. Maitland moved that Mr. Moyer continue to serve in the capacity as Chairman.

SECOND: Mr. Johnson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

MOTION: Mr. Johnson moved that Mr. Maitland continue to serve in the capacity of Vice Chairman.

SECOND: Ms. Campbell.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Next Meeting

The next meeting of the Virginia Soil and Water Conservation Board will be held in conjunction with the Board of Directors of the Virginia Association of Soil and Water Conservation District Directors (VASWCD) on Wednesday, December 8, 2004, beginning at 9:30 a.m. The meeting will be held at the Hotel Roanoke in Roanoke, Virginia.

Adjourn

There being no further business, the meeting was adjourned.

Respectfully submitted,

David L. Moyer
Chairman

Joseph H. Maroon
Recording Secretary

Attachment #1

September 16, 2004

District Study Update

Overview/Charge: Actions by the 2004 General Assembly include two directives contained in the Appropriation Act which require DCR and the VSWCB to perform analysis and study of agricultural programs delivered by SWCDs. The first directive charges the VSWCB to "...evaluate the quantitative impact of SWCD practices and funding on Virginia's water quality and land conservation goals." Reporting of certain annual statistics accompanies this charge. The second directive charges DCR with reviewing SWCD operations and identifying potential improvements in water quality and soil erosion programs. Based on findings, DCR is requested to propose changes in SWCD practices, staffing and funding. This review must consider cost-effectiveness and efficiencies with various agricultural BMPs as well as the JLARC nutrient management study being conducted according to House Joint Resolution 72.

Discussion this summer with key staff from House Appropriation and Senate Finance committees that helped craft these two directives indicate the studies are linked, and they should be performed concurrently. At the core of these directives is a need by state legislators to better understand, and also be confident that monies appropriated for implementation of agricultural BMPs are being spent effectively and efficiently and that positive results with water quality are occurring. It is also clear that the legislative budget staff are not aware of recent actions, such as the new Cost-Share Program agreements that relate to these studies.

An interim report is due December 31, 2004; a final report is due December 31, 2005.

Resources Available to Perform This Study:

- No funding or additional staff were appropriated by the General Assembly to perform this work
- Up to \$10,000 has been authorized to be made available from unexpended SWCD operational funding brought forward into this fiscal year
- Existing DCR staff, primarily Mark Meador (District Programs Manager) and Gary Moore (Agricultural Incentives Program Manager) will coordinate and support this work.

Progress/actions to date:

- Initial analysis of Virginia's Agricultural BMP Cost-Share Program, including analysis of farmer participation and a preliminary examination of BMP cost-effectiveness has been performed; much work remains.
- Preliminary investigation of assistance that could be pursued with an independent consultant; and from resources at Virginia Tech –no assistance has as yet been finalized
- Initial exploration of agricultural data from resources that include USDA NASS (National Agricultural Statistics Service) and the U.S. Census Bureau
- Discussion with VCU (Virginia Commonwealth University) to potentially negotiate a position to be based at DCR to perform needed functions in support of the Ag BMP Cost-Share program and provide study assistance.

Next Steps:

1) **Study Guidance/Direction:** Establish and convene a team to guide conduct of the study during the balance of this calendar year and the next. The team will be comprised of DCR staff; representatives from the VASWCD, the VSWCB, and NRCS. Other agencies/organizations may be requested to participate depending on issues and needs. This group will provide guidance to:

- Data collected by DCR and SWCDs
- Continued analysis of ag BMP efficiency and effectiveness

District Study

- Analysis of agricultural programs delivered by SWCDs
- Development of any proposed changes in SWCD practices, staffing and funding.

Convene this study team by October 15, 2004 and no less than quarterly thereafter.

2) **Data Collection/Reporting:** Assign DCR staff to assist with research/compilation of agricultural data provided to, and collected from SWCDs –including development of reporting documents, communication to SWCDs, etc.

3) **BMP Analysis:** Continue analysis of agricultural BMPs to further examine cost effective practices that achieve the greatest water quality benefits through work of existing DCR staff, using current staff to the extent possible.

4) **Additional Support Assistance:**

- a. Pursue employment of a cooperative position with VCU to perform related ag BMP support assistance at DCR including assistance with this study.
- b. As appropriate, pursue contractual assistance with outside consultants to perform study assistance functions that could include group facilitation, compilation of information and development of written summaries and reports.

Attachment #2

**NRCS Report
Virginia Soil and Water Conservation Board
September 16, 2004
NRCS Conference Room
Richmond, VA**

FARM BILL PROGRAM PROGRAMS

Environmental Quality Incentives Program (EQIP)

All FY 2004 program funds have been obligated. Accepted applicants were notified and contracts were developed and signed prior to the deadline. All contracts were turned over to FSA for data entry.

Effective October 1, 2004, NRCS will assume all administrative functions of EQIP and will prepare and execute all contracts documents at the field level. Staff are being trained on this new software (Protracts) developed for this function.

Comments have been requested and received from local working groups around the state on suggestions and/or proposed changes for next year's program. Regional allocations of funding in Virginia are anticipated rather than the statewide funding pools currently used.

Wildlife Habitat Incentive Program (WHIP)

All FY 2004 program funds have been obligated. NRCS is partnering with the VA Department of Game and Inland Fisheries by providing \$250,000 in the zebra mussel eradication effort. The remaining WHIP funds are being used on farm wildlife habitat contracts with landowners.

Farm and Ranchland Protection Program (FRPP)

All FY 2004 program funds have been obligated. A national Request for Proposal (RFP) was issued and six proposals were received and approved. Remaining funds were used to modify prior year agreements where additional funding was needed due to higher easement values than originally estimated.

Grassland Reserve Program (GRP)

All FY 2004 funds will be obligated. The sign-up period generated approximately 80 applications. All applications have been ranked and approvals have been made. Long term rental agreements will be completed prior to October 1 and easement funding will be held until the easements can be executed.

Conservation Security Program (CSP)

Virginia was not one of the FY 2004 National Pilot states but every state will be funded for at least one watershed in FY-2005. Efforts are currently underway to select watersheds to recommend for participation for FY 2005. Digitized soil maps and data are a requirement. These were submitted to Washington on September 10. Staff will be developing the three tier participation levels this fall in anticipation of a winter sign-up period.

Conservation Partnership Initiative (CPI)

A new environmental planning effort was recently announced and rules were published in the Federal Register to allow NRCS to partner with state, tribal, and local governments, watershed groups, or non profit organizations. This effort is intended to foster conservation partnerships that focus technical and financial resources on conservation priorities in watersheds of special significance or areas of environmental sensitivity. Assistance will be available on a matching basis to develop plans and implementation strategies toward the following priorities; terrestrial and aquatic wildlife habitat, coastal resources, livestock nutrient management, or minor/specialty crop pest management. Virginia may submit one proposal within the state boundary and one additional proposal for a watershed area that crosses state lines and partners with other state organizations and groups.

Conservation Technical Assistance (CTA)

NRCS administrative and technical staffs are in the final stages of executing a new type of agreement to procure services from the private sector for engineering and nutrient management planning activities to address increasing workloads. Private firms will be under contract to complete work assignments generated by NRCS at the field level and approved at the state office. Pilot areas have been established.

DAM REHAB ACTIVITIES

Marrowbone Creek Watershed in Henry County – Eminent domain proceedings were initiated for two property owners that were unwilling to cooperate with the Blue Ridge SWCD and provide temporary construction easements. The final plans and specifications have been completed. A site showing was held on August 24th and NRCS opened bids on September 8th for the Marrowbone Creek dam rehabilitation project. Construction should begin in early 2005.

South River Watershed in Augusta County – The planning process for dam rehabilitation is ongoing for three dams. The draft plan should be completed by

December 2004. NRCS recently completed a detailed rehabilitation site assessment for the Senger's Lake Dam. A request for dam rehabilitation was received on the Mills Creek Dam from Augusta County.

Pohick Creek Watershed in Fairfax County – NRCS has initiated planning on Site 4 (Lake Royal). A draft plan for Site 4 will be completed in FY-05. Three other Pohick Creek dams will need rehabilitation planning in future years.

Johns Creek Watershed in Botetourt County – The Mountain Castles SWCD has submitted a request for dam rehabilitation on one site in the Johns Creek Watershed. NRCS will conduct a dam rehabilitation site assessment on two dams in this watershed in need of rehabilitation.

PL-566 WATERSHED PLANNING AND IMPLEMENTATION

Buena Vista Watershed in Rockbridge County – NRCS has been working with Buena Vista city officials and the Natural Bridge SWCD on beginning on the PL-566 flood control project for the city. NRCS and the city have signed a cooperative agreement for the city to provide project management services for the work. NRCS has hired a new Project Engineer located in Verona and a Civil Engineering Technician located in Richmond to provide technical assistance for the project.

North Fork Powell River Watershed in Lee County – NRCS received a request for watershed planning assistance in July 2004 for this watershed. Project sponsors include the Daniel Boone SWCD, Lee County, and the VA Dept. of Mines, Minerals and Energy. This will be a water quality project that focuses on treating acid mine runoff, critical area treatment, and abandoned mine land. An initial public meeting was held in August. Planning will continue in FY-05.

Naked Creek and Germany River Watershed in Rockingham and Page Counties – In July the NRCS Planning Staff conducted site visits in these watersheds to review flooding problems. The staff concluded there are enough flooding problems to warrant additional studies. Trip reports have been provided to county officials.

Nottoway County Water Supply Study – The NRCS Planning Staff met with Nottoway County officials in June to discuss long term water supply issues. The County was directed to work with Rural Development to prepare a water needs assessment.

Shenandoah County Comprehensive Floodplain Management Study – The NRCS Planning Staff are assisting Shenandoah County to prepare a comprehensive floodplain management plan. A county committee has been

formed which includes the planning and zoning department, emergency services, fire and rescue, VDOT, Loudoun Fairfax SWCD, NRCS and others.

SOIL SURVEY

Seven (7) soil scientists are conducting field soil survey work in Brunswick, Buchanan, Floyd, Highlands, Rockbridge and Russell Counties. In addition there is a staff of three NRCS and one District soil scientist continuing to work on the updated survey work progressing in Chesapeake, Culpeper, and Fairfax Counties. Loudoun and Fauquier Counties continue to work on their updates with their staff and call upon NRCS for assistance as needed.

Much effort this year has gone towards the national publication goal to complete all work on surveys that have mapping complete. Required digital layers have been developed, adjustments to the base photography have been made, and database population needs have been completed in a number of surveys in an effort to move these forward to publication.

Continued soil survey database population and maintenance is being conducted. Five soil survey correlations have been completed and signed during the year; Alleghany, Amherst, Franklin and the Cities of Richmond and Chesapeake. Digitizing efforts continue with the addition of both the City of Richmond and Mathews County to the certified SSURGO database. The City of Chesapeake is nearly complete and Bland County is about 40% complete with digitizing.

Attachment #3

Department of Conservation and Recreation

Report to the: VA SWC BOARD September 16, 2004

DCR/SWCD Grant Agreements for FY05 Operational Funding:

Every SWCD has now signed and returned their grant agreement with DCR for FY05 Operational Funding. This fiscal year (FY05), total operational funding for all districts is \$4,052,240, which reflects a slight increase above FY04 operational funding that totaled \$3,932,240. However, FY05 funding is still roughly 6% less than the peak funding level experienced by districts in FY01 (\$4,301,000).

Agricultural BMP Cost-Share Program:

In recent weeks, five regional training sessions for SWCD and NRCS personnel have been completed. These sessions covered changes to BMP specifications and the discussions about providing cost-effective water quality benefits through the judicious approval of BMPs. Statewide, \$6,233,062 of WQIA funds were allocated for use as cost-share funds in August. Un-obligated funds from Program Year 2004 were added to this amount to generate 2005 program year allocations, this results in \$3,888,542 being dedicated to the Chesapeake Bay cost share funds and \$2,593,362 being dedicated to the Southern Rivers cost-share funding. These funds were allocated to SWCDs based upon the 2002 NPS Assessment Report hydrologic unit rankings as detailed in the state BMP manual. The printing and distribution of the Program Year 2005 BMP manuals is complete.

Conservation Reserve Enhancement Program (CREP):

The first CREP open space easement was recorded in Albemarle County in August. All of the riparian buffers within a 559 acre tract were protected. The easement conserves a total of 95.1 acres and over 5 miles of stream bank with one hundred foot wide forested riparian buffers. CREP easement funds were used to protect 81.5 acres of restored CREP buffers. Another 13.6 acres of directly adjacent mature riparian forest buffers that was not eligible for CREP were protected with funds from the 2003 Virginia Chesapeake Bay Implementation Grant. A plan to utilize Chesapeake Bay Restoration Funds (state tax check off funds) to accelerate Chesapeake Bay CREP Enrollment and increase farm conservation planning is awaiting final approval. Administrative details are being resolved to assure that landowner bonus payments for 100 foot and wider forested riparian buffers in the Chesapeake Bay, and all wetland restoration projects under CREP receive additional state funding. The Southern Rivers supplemental 5,000 acre CREP agreement has been returned unsigned by USDA requesting additional changes be made.

Other WQIF Actions:

Plans are being finalized for soliciting project proposals from public and private entities this fiscal year. A review team will select and fund projects that most fully satisfy criteria for fund use. \$1,250,000 is available for these competitive projects and an additional

\$250,00 is available for silvicultural activities that meet state water quality objectives. Assistance by the Virginia Department of Forestry is being coordinated for use of those additional funds this fiscal year.

SWCD Audit Services:

The accounting firm of Robinson, Farmer, Cox Associates (RFCA) is again auditing SWCDs this year. Field visits to twenty-six (26) SWCDs are being scheduled to perform audit services. DCR aims to continue a two year audit cycle for all SWCDs. Previously the audit schedule provided a three year cycle of audits. The two year cycle will better protect districts and identify any problems in a more timely manner.

Stormwater Management:

DCR will present the revised Stormwater Management (SWM) regulations to the Virginia Soil and Water Conservation Board (Board) and request approval during the Board's September 16, 2004 meeting. The regulations are one of the necessary steps which must be completed in DCR's efforts for EPA to approve the transfer of the SWM permitting program from DEQ to DCR. The SWM Program Manager continues to recruit and work to fill approved positions for this program.

Nutrient Management Regulatory Actions:

DCR recently completed 4 meetings with the Technical Advisory Committee (TAC) that provided input on potential amendments to the nutrient management training and certification regulations. The department will now complete development of a formal regulatory proposal for submittal to the administration and the Department of Planning and Budget for consideration. Initial submittal should occur by November (2004). Major areas of change being considered include criteria for addressing phosphorus in nutrient management planning and revisions to recommendations for timing of nitrogen applications.

Miscellaneous Topics of Interest:

- DCR staff continue to work with the Prince William SWCD to seek closure on the financial loss experienced by that district due to employee theft. The initial check of \$100,000 has been of considerable help to restoring financial losses, however, pressure on the district continues from companies/organizations that have imposed penalties and financial charges. Closure is needed on a final settlement by the insurance company in order to resolve these remaining issues.